

DKE 9757

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Steven M. Shei  
Serial No. 10/698,693  
Filed October 31, 2003  
Confirmation No. 1911  
For Food Warming Apparatus and Method  
Examiner Reginald Alexander

Art Unit 1761

August 15, 2007

**TERMINAL DISCLAIMER TO OBVIATE A  
DOUBLE PATENTING REJECTION OVER A PRIOR PATENT**

TO THE COMMISSIONER FOR PATENTS,

SIR:

The owner, Duke Manufacturing Co., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term prior Patent No. 7,105,779 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later: expires for failure to pay a maintenance

fee; is held unenforceable; is found invalid by a court of competent jurisdiction; is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321; has all claims canceled by a reexamination certificate; is reissued; or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1.  For submission on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of organization.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

2.  The undersigned is an attorney/agent of record.  
Reg. No. 28,416.

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8/15/07

Date

*Michael E. Godar*

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Telephone Number 314-231-5400

- The Commissioner is hereby authorized to charge the Terminal disclaimer fee under 37 CFR 1.20(d) to Deposit Account No. 19-1345.

MEG/bcw